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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
097535,082	03/23/00	RIVKIN	

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PM82/0119

EXAMINER

SAKRAN, V	
ART UNIT	PAPER NUMBER

3626
DATE MAILED:

01/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/535,082

Applicant(s)
RIVKIN

Examiner
Victor Sakran

Group Art Unit
3626



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-13 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-13 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Specification

The specification is objected to as being informal in that, brief description of Figures 2 - 18, and detailed description of the invention are missing from the specification . Such is required in order to comply with 37 CFR 1.74 and 37 CFR 1.71 ; respectively .

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 112

Claim 12, is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Since the term "scissors, pens, pencils, and other objects weighing less than 48 ozs " has no proper antecedent basis in the specification . Such is required .

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Claim 13, is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Because the term "two sided pressure adhesive coated foam" has no proper antecedent basis in the specification. Such is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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Claims 1 - 11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunchock U. S. Patent No. 5,845,369 and/or Bruno U. S. Patent No. 4,969,239 in view of Wakefield U. S. Patent No. 2,363,914.

Dunchock and/or Bruno both of whom disclose the general combination claimed of a clip device or the like for holding eyeglasses to an article of fabric ; see Figures 1, 2, and the entire document in Dunchock and Figures 1 - 8, and the entire document in Bruno, except for the particular use of a magnetic force in cooperation with a keeper element for holding eyeglasses . Wakefield teaches the use of a magnetic force in cooperation with a keeper element, wherein, the magnetic force and the keeper element are attached to an article of apparel ; 1 - 3 ; page 1, column 2, lines 19 -46, and the entire document . It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the eyeglasses in Dunchock and/or Bruno with a magnetic fastening means in cooperation with a keeper plate in order for holding its eyeglasses to an article of apparel in the manner taught, disclosed and suggested by Wakefield and/or by merely substituting the magnetic force faster in cooperating with the keeper plate of Wakefield for the fastening means assembly in Dunchock and/or Bruno ; especially, since such modification involves only routine skill in the art . Furthermore, the use of such structure such as magnetic fastener is conventional and well known within the art .

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Claims 12 and 13, are rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claims 1 - 11, above, and further in view of Krauthamer U. S. Patent No. 3,178,784 who teaches the use of a magnetic force fastening means in combination with two sided pressure adhesive means for holding pencil, pen and the like to an article of apparel ; see Figures 1- 8 and the entire document, and to further incorporate such structure in Dunchock and/or Bruno in the manner taught and disclosed by Krauthamer, it would have been obvious to one having ordinary skill in the art . Moreover, the particular use of the fastening device assembly for holding eyeglasses, pencil, pen and the like is considered no more than a matter of design choice obvious to one having ordinary skill within the art .


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's attention is directed to the prior art cited herein, but not applied, as showing structure related to Applicant's disclosed invention .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Victor Sakran** whose **telephone number is (703) 308-2224**. The examiner can normally be reached on Monday-Thursday from 6:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight, can be reached on (703) 308-3179. The **fax phone number for this Group is (703) 305-3597 or 305-3598.**

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.


VICTOR SAKRAN
PRIMARY EXAMINER
ART UNIT 3626

January 16, 2001